



***Substitute Senate Bill No. 219***

***Public Act No. 16-7***

***AN ACT CONCERNING PROBATE COURT OPERATIONS.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. (NEW) (*Effective October 1, 2016*) (a) If a Probate Court finds, after notice and hearing on any petition, application or motion, that the court does not have jurisdiction to hear the petition, application or motion but that another Probate Court of this state does have jurisdiction to hear the petition, application or motion, the court may order that the file be transferred to the court that has jurisdiction or may dismiss the petition, application or motion for lack of jurisdiction. If the transferring court finds that more than one Probate Court has jurisdiction over the petition, application or motion, the transferring court may order that the file be transferred to the Probate Court that the transferring court finds is the most convenient forum for the parties. The transferring court shall make written findings on the basis for its finding that the transferee court has jurisdiction over the petition, application or motion, and, if applicable, which court is the most convenient forum for the parties. The transferring court's findings shall be conclusive for all further proceedings on the petition, application or motion, except that a transfer order under this section shall be subject to appeal as provided in section 45a-186 of the general statutes.

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(b) Upon issuance of a transfer order under subsection (a) of this section, the transferring court shall cause certified copies of all documents in the transferring court's file to be delivered to the transferee court. The transferee court shall proceed on the underlying petition, application or motion as if it had originally been filed with the transferee court. No additional filing fee shall apply with respect to the transferred petition, application or motion.

(c) Nothing in this section shall prevent a court that has jurisdiction over a case from transferring the case to another court under a statute authorizing such transfer.

Sec. 2. Section 45a-288 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2016*):

(a) When a will conveying property situated in this state has been proved and established out of this state by a court of competent jurisdiction, the executor of such will or any person interested in such property may present to the [court of probate] Probate Court in the district determined under the provisions of section 45a-287 [.] an authenticated and exemplified copy of such will and of the record of the proceedings proving and establishing the will and may request that such copies be filed and recorded. The request shall be accompanied by a complete statement in writing of the property and estate of the decedent in this state. If, upon a hearing, after such notice to the [Commissioner of Revenue Services and other] parties in interest as the court orders, no sufficient objection is shown, the [court of probate] Probate Court shall order such copies to be filed and recorded, and they shall thereupon become a part of the files and records of such court, and shall have the same effect as if such will had been originally proved and established in such court. [of probate. Notwithstanding any objection by said commissioner to the domicile of the decedent as claimed on an application to place a will on file, the court may, in the absence of objection by any other interested party,

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order the copies to be filed and recorded subject only to a subsequent and final finding of domicile as provided in section 45a-309.]

(b) Nothing in this section shall give effect to a will made in this state by [an inhabitant thereof] a resident of this state which has not been executed according to the laws of this state.

(c) If the [court of probate] Probate Court finds sufficient objection to such will, the applicant shall offer competent proof of the contents and legal sufficiency of the will, except that the original thereof need not be produced unless so directed by the [court of probate] Probate Court.

Sec. 3. Subsection (g) of section 45a-656b of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2016*):

(g) A person under conservatorship may waive the right to a hearing required under this section if the attorney for the person under conservatorship has consulted with the person under conservatorship and the attorney has filed with the court a record of the waiver. Such a waiver shall be invalid if the waiver does not represent the wishes of the person under conservatorship. If a person under voluntary representation pursuant to section 45a-646 is not represented by an attorney, the court shall conduct a hearing to determine whether the waiver represents the person's wishes.

Sec. 4. Section 45a-106a of the 2016 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2016*):

(a) The fees set forth in this section apply to each filing made in a Probate Court on or after January 1, 2016, in any matter other than a decedent's estate.

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(b) The fee to file each of the following motions, petitions or applications in a Probate Court is two hundred twenty-five dollars:

(1) With respect to a minor child: (A) Appoint a temporary guardian, temporary custodian, guardian, coguardian, permanent guardian or statutory parent, (B) remove a guardian, including the appointment of another guardian, (C) reinstate a parent as guardian, (D) terminate parental rights, including the appointment of a guardian or statutory parent, (E) grant visitation, (F) make findings regarding special immigrant juvenile status, (G) approve placement of a child for adoption outside this state, ~~(H)~~ approve an adoption, ~~[(H)]~~ ~~(I)~~ validate a foreign adoption, ~~[(I)]~~ ~~(J)~~ review, modify or enforce a cooperative postadoption agreement, (K) review an order concerning contact between an adopted child and his or her siblings, ~~(L)~~ resolve a dispute concerning a standby guardian, ~~[(J)]~~ ~~(M)~~ approve a plan for voluntary services provided by the Department of Children and Families, ~~[(K)]~~ ~~(N)~~ determine whether the termination of voluntary services provided by the Department of Children and Families is in accordance with applicable regulations, ~~(O)~~ conduct an in-court review to modify an order, ~~[(L)]~~ ~~(P)~~ grant emancipation, ~~[(M)]~~ ~~(Q)~~ grant approval to marry, ~~[(N)]~~ ~~(R)~~ transfer funds to a custodian under sections 45a-557 to 45a-560b, inclusive, ~~[(O)]~~ ~~(S)~~ appoint a successor custodian under section 45a-559c, ~~(T)~~ resolve a dispute concerning custodianship under sections 45a-557 to 45a-560b, inclusive, and ~~[(P)]~~ ~~(U)~~ grant authority to purchase real estate;

(2) Determine paternity;

(3) Determine the age and date of birth of an adopted person born outside the United States;

(4) With respect to adoption records: (A) Appoint a guardian ad litem for a biological relative who cannot be located or appears to be incompetent, (B) appeal the refusal of an agency to release information,

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(C) release medical information when required for treatment, and (D) grant access to an original birth certificate;

(5) Approve an adult adoption;

(6) With respect to a conservatorship: (A) Appoint a temporary conservator, conservator or special limited conservator, (B) change residence, terminate a tenancy or lease, sell or dispose household furnishings, or place in a long-term care facility, (C) determine competency to vote, (D) approve a support allowance for a spouse, (E) grant authority to elect the spousal share, (F) grant authority to purchase real estate, (G) give instructions regarding administration of a joint asset or liability, (H) distribute gifts, (I) grant authority to consent to involuntary medication, (J) determine whether informed consent has been given for voluntary admission to a hospital for psychiatric disabilities, (K) determine life-sustaining medical treatment, [(K)] (L) transfer to or from another state, [(L)] (M) modify the conservatorship in connection with a periodic review, [(M)] (N) excuse accounts under rules of procedure approved by the Supreme Court under section 45a-78, (O) terminate the conservatorship, and [(N)] (P) grant a writ of habeas corpus;

(7) Resolve a dispute concerning advance directives or life-sustaining medical treatment when the individual does not have a conservator or guardian;

(8) With respect to an elderly person as defined in section 17b-450: (A) Enjoin an individual from interfering with the provision of protective services to [an elderly person] such elderly person, and (B) authorize the Commissioner of Social Services to enter the premises of such elderly person to determine whether such elderly person needs protective services;

(9) With respect to an adult with intellectual disability: (A) Appoint

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a temporary limited guardian, guardian or standby guardian, (B) grant visitation, (C) determine competency to vote, (D) modify the guardianship in connection with a periodic review, [(D)] (E) determine life-sustaining medical treatment, [(E)] (F) approve an involuntary placement, [(F)] (G) review an involuntary placement, and [(G)] (H) grant a writ of habeas corpus;

(10) With respect to psychiatric disability: (A) Commit an individual for treatment, (B) issue a warrant for examination of an individual at a general hospital, (C) determine whether there is probable cause to continue an involuntary confinement, (D) review an involuntary confinement for possible release, (E) authorize shock therapy, (F) authorize medication for treatment of psychiatric disability, (G) review the status of an individual under the age of sixteen as a voluntary patient, and (H) recommit an individual under the age of sixteen for further treatment;

(11) With respect to drug or alcohol dependency: (A) Commit an individual for treatment, (B) recommit an individual for further treatment, and (C) terminate an involuntary confinement;

(12) With respect to tuberculosis: (A) Commit an individual for treatment, (B) issue a warrant to enforce an examination order, and (C) terminate an involuntary confinement;

(13) Compel an account by the trustee of an inter vivos trust, attorney-in-fact, custodian under sections 45a-557 to 45a-560b, inclusive, or treasurer of an ecclesiastical society or cemetery association;

(14) With respect to a testamentary or inter vivos trust: (A) Construe, divide, reform or terminate the trust, [(B)] appoint a trustee to fill a vacancy in the office of trustee, (C) determine title to property, (D) apply the doctrine of cy pres or approximation, (E) authorize the

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trustee to disclaim an interest in property, and (F)] (B) enforce the provisions of a pet trust, and (C) excuse a final account under rules of procedure approved by the Supreme Court under section 45a-78;

(15) Authorize a fiduciary to establish a trust;

(16) Appoint a trustee for a missing person;

(17) Change a person's name;

(18) Issue an order to amend the birth certificate of an individual born in another state to reflect a gender change;

(19) Require the Department of Public Health to issue a delayed birth certificate;

(20) Compel the board of a cemetery association to disclose the minutes of the annual meeting;

(21) Issue an order to protect a grave marker;

(22) Restore rights to purchase, possess and transport firearms;

(23) Issue an order permitting sterilization of an individual; and

(24) With respect to any case in a Probate Court other than a decedent's estate: (A) Compel or approve an action by the fiduciary, (B) give advice or instruction to the fiduciary, (C) authorize a fiduciary to compromise a claim, (D) list, sell or mortgage real property, (E) determine title to property, (F) resolve a dispute between cofiduciaries or among fiduciaries, (G) remove a fiduciary, (H) appoint a successor fiduciary or fill a vacancy in the office of fiduciary, (I) approve fiduciary or attorney's fees, (J) apply the doctrine of cy pres or approximation, (K) reconsider, modify or revoke an order, and (L) decide an action on a probate bond.

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(c) The fee to file a petition for custody of the remains of a deceased person in a Probate Court is one hundred fifty dollars, except that the court shall waive the fee if the state is obligated to pay funeral and burial expenses under section 17b-84.

(d) The fee for a fiduciary to request the release of funds from a restricted account in a Probate Court is one hundred fifty dollars, except that the court shall waive the fee if the court approves the request without notice and hearing in accordance with the rules of procedure adopted by the Supreme Court under section 45a-78.

(e) The fee for mediation conducted by a member of the panel established by the Probate Court Administrator is three hundred fifty dollars per day or part thereof.

(f) The fee to request a continuance in a Probate Court is fifty dollars, plus the actual expenses of rescheduling the hearing that are payable under section 45a-109, except that the court, for cause shown, may waive either the fifty-dollar fee or the actual expenses of rescheduling the hearing, or both. The fee shall be payable by the party who requests the continuance of a scheduled hearing or whose failure to appear necessitates the continuance.

(g) The fee to file a motion to permit an attorney who has not been admitted as an attorney under the provisions of section 51-80 to appear pro hac vice in a matter in the Probate Court is two hundred fifty dollars.

(h) Except as provided in subsection (d) of section 45a-111, fees imposed under this section shall be paid at the time of filing.

(i) If a statute or rule of procedure approved by the Supreme Court under section 45a-78 specifies filings that may be combined into a single motion, petition or application, the fee under this section for the combined filing is the amount equal to the largest of the individual



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filing fees applicable to the underlying motions, petitions or applications.

(j) No fee shall be charged under this section if exempted or waived under section 45a-111 or any other provision of the general statutes.

Sec. 5. Section 45a-612 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2016*):

[The Court of Probate may grant the right of visitation to any person who has been removed as guardian of any minor child or children, any relative of the minor child or children or any parent who has been denied temporary custody of any minor child or children pending the hearing on a removal or termination of parental rights application pursuant to the provisions of sections 45a-132, 45a-593 to 45a-597, inclusive, 45a-603 to 45a-622, inclusive, and 45a-629 to 45a-638, inclusive] In connection with any proceeding for removal of guardian, appointment of guardian for a minor who has no guardian or termination of parental rights pursuant to sections 45a-603 to 45a-622, inclusive, and 45a-715 to 45a-719, inclusive, as amended by this act, the Probate Court may grant visitation to (1) any parent or guardian if temporary custody of the minor has been granted to another person pending the hearing on removal or termination of parental rights, (2) any person who has been removed as guardian of the minor, or (3) any relative of the minor. Such order shall be [according to] made in accordance with the best judgment of the court upon the facts of the case and subject to such conditions and limitations as it deems equitable. In making, modifying or terminating such an order, the court shall be guided by the best [interest] interests of the [child] minor, giving consideration to the wishes of such [child] minor if he or she is of sufficient age and capable of forming an intelligent opinion. The grant of such visitation rights shall not prevent any court of competent jurisdiction from thereafter acting upon the custody of such [child] minor, the parental rights with respect to such [child] minor or

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the adoption of such [child] minor, and any such court may include in its decree an order terminating such visitation rights.

Sec. 6. Subsection (a) of section 45a-614 of the 2016 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2016*):

(a) Except as provided in subsection (b) of this section, the following persons may [apply to] petition the Probate Court [for the district in which the minor resides] for the removal as guardian of one or both parents of the minor: (1) Any adult relative of the minor, including those by blood or marriage; (2) a person with actual physical custody of the minor at the time the petition is filed; or (3) counsel for the minor. The petition shall be filed in the Probate Court in the district in which the minor resides, is domiciled or is located at the time of the filing of the petition.

Sec. 7. Subsection (e) of section 45a-715 of the 2016 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2016*):

(e) A petition under this section shall be filed in the Probate Court for the district in which (1) the petitioner [or] resides, (2) the child resides, [or,] is domiciled or is located at the time of the filing of the petition, or (3) in the case of a minor who is under the guardianship of any child care facility or child-placing agency, in the Probate Court for the district in which [the main office or any local] any office of the agency is located. If the petition is filed with respect to a child born out of wedlock, the petition shall state whether there is a putative father to whom notice shall be given under subdivision (2) of subsection (b) of section 45a-716.

Sec. 8. Section 45a-644 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2016*):

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For the purposes of [sections 45a-644] this section and sections 45a-645 to 45a-663, inclusive, the following terms shall have the following meanings:

(a) "Conservator of the estate" means a person, [a] municipal or state official, [or a private profit or nonprofit] corporation, limited liability company, partnership or other entity recognized under the laws of this state, whether or not operated for profit, except a hospital, nursing home facility, as defined in section 19a-521, or residential care home, as defined in section 19a-521, appointed by the [Court of] Probate Court under the provisions of [sections 45a-644] this section and sections 45a-645 to 45a-663, inclusive, to supervise the financial affairs of a person found to be incapable of managing his or her own affairs or of a person who voluntarily asks the [Court of] Probate Court for the appointment of a conservator of the estate, and includes a temporary conservator of the estate appointed under the provisions of section 45a-654.

(b) "Conservator of the person" means a person, [a] municipal or state official, [or a private profit or nonprofit] corporation, limited liability company, partnership or other entity recognized under the laws of this state, whether or not operated for profit, except a hospital or nursing home facility as defined in section 19a-521, appointed by the [Court of] Probate Court under the provisions of [sections 45a-644] this section and sections 45a-645 to 45a-663, inclusive, to supervise the personal affairs of a person found to be incapable of caring for himself or herself or of a person who voluntarily asks the [Court of] Probate Court for the appointment of a conservator of the person, and includes a temporary conservator of the person appointed under the provisions of section 45a-654.

(c) "Incapable of caring for one's self" or "incapable of caring for himself or herself" means that a person has a mental, emotional or physical condition that results in such person being unable to receive and evaluate information or make or communicate decisions to such

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an extent that the person is unable, even with appropriate assistance, to meet essential requirements for personal needs.

(d) "Incapable of managing his or her affairs" means that a person has a mental, emotional or physical condition that results in such person being unable to receive and evaluate information or make or communicate decisions to such an extent that the person is unable, even with appropriate assistance, to perform the functions inherent in managing his or her affairs, and the person has property that will be wasted or dissipated unless adequate property management is provided, or that funds are needed for the support, care or welfare of the person or those entitled to be supported by the person and that the person is unable to take the necessary steps to obtain or provide funds needed for the support, care or welfare of the person or those entitled to be supported by the person.

(e) "Involuntary representation" means the appointment of a conservator of the person or a conservator of the estate, or both, after a finding by the [Court of] Probate Court that the respondent is incapable of managing his or her affairs or incapable of caring for himself or herself.

(f) "Respondent" means an adult person for whom an application for involuntary representation has been filed or an adult person who has requested voluntary representation.

(g) "Voluntary representation" means the appointment of a conservator of the person or a conservator of the estate, or both, upon request of the respondent, without a finding that the respondent is incapable of managing his or her affairs or incapable of caring for himself or herself.

(h) "Conserved person" means a person for whom involuntary representation is granted under [sections 45a-644] this section and

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sections 45a-645 to 45a-663, inclusive.

(i) "Personal needs" means the needs of a person including, but not limited to, the need for food, clothing, shelter, health care and safety.

(j) "Property management" means actions to (1) obtain, administer, manage, protect and dispose of real and personal property, intangible property, business property, benefits and income, and (2) deal with financial affairs.

(k) "Least restrictive means of intervention" means intervention for a conserved person that is sufficient to provide, within the resources available to the conserved person either from the conserved person's own estate or from private or public assistance, for a conserved person's personal needs or property management while affording the conserved person the greatest amount of independence and self-determination.

Sec. 9. Section 45a-177 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2016*):

(a) All conservators, guardians [, persons appointed by the Court of Probate to sell land of minors] and trustees, including those entrusted with testamentary trusts unless excused by the will creating the trust, shall render periodic accounts of their trusts signed under penalty of false statement to the [Court of] Probate Court having jurisdiction for allowance, at least once during each three-year period and more frequently if required [to do so] by the court or by the will or trust instrument creating the trust. [Periodic accounts for filing only may be submitted to the court at any time during each three-year period. Upon receipt of a periodic account, the court shall cause notice of it and of its availability for examination at the court to be given in such manner and to such parties as it deems reasonable. Any such party may apply to the court for a hearing on the account. If an application

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for such a hearing is not received by the court from a party in interest within the time stated in the notice, the periodic account will be filed without hearing thereon and without allowance or disallowance thereof, and shall not be recorded.] At the end of each three-year period from the date of the last allowance of a periodic account, or upon the earlier receipt of a final account, there shall be a hearing on all periodic accounts not previously allowed, and the final account, if any, in accordance with sections 45a-178 and 45a-179, as amended by this act.

[(b) Each such periodic account shall include an inventory of the trust estate showing fully how the principal of the fund is invested and the items of income and expenditure. If there has been no change in the identity of the items comprising the principal of the fund since the last account which has been accepted and approved, it shall not be necessary to include an inventory of the trust estate.]

[(c)] (b) If the estate held by any person in any such fiduciary capacity is less than two thousand dollars, or, in the case of a corporate fiduciary under the supervision of the Banking Commissioner or any other fiduciary bonded by a surety company authorized to do business in this state, ten thousand dollars, such fiduciary shall not be required to render such account unless so ordered by the court.

Sec. 10. Section 45a-179 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2016*):

(a) When a conservator, guardian [, trustee in insolvency] or trustee of a testamentary trust exhibits his or her final account to the [Court of] Probate Court for allowance, the court shall appoint a time and place for a hearing on the account and shall cause notice of the hearing to be given as it directs. Such fiduciary shall sign the account under penalty of false statement.

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(b) The court shall, before approving a final account of an executor or administrator, hold a hearing thereon for which notice may be given as the court shall direct, unless all parties interested in the estate sign and file in court a written waiver of such notice.

Approved May 5, 2016